

House of Representatives, March 31, 1998. The Committee on Judiciary reported through REP. LAWLOR, 99th DIST., Chairman of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING THE SIMPLIFICATION OF THE MORTGAGE PAYOFF NOTICE PROCESS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 2 of public act 97-267 is repealed
2 and the following is substituted in lieu thereof:

3 (a) For the purposes of this section:

4 (1) "DATE OF COMPLETION OF THE CLOSING" MEANS
5 THE DATE THAT PAYOFF FUNDS BECOME AVAILABLE FOR
6 TRANSMITTAL TO THE MORTGAGE HOLDER.

7 [(1)] (2) "Notification agent" means: (A) The
8 buyer's attorney, where the buyer is represented
9 by an attorney and the seller is represented by a
10 separate attorney who assumes the responsibility
11 for transmitting the mortgage payoff funds to the
12 mortgage holder; (B) the new lender, in a
13 refinance situation where the attorney
14 representing the mortgagor is also the attorney
15 representing the new lender; (C) the seller, where
16 the seller is not represented by an attorney and
17 the attorney representing the buyer has taken the
18 responsibility for transmitting the payoff funds
19 to the mortgage holder; or (D) the seller's
20 attorney, where the buyer is represented by a
21 separate attorney who assumes the responsibility

22 for disbursing the mortgage payoff funds to the
23 mortgage holder;

24 [(2)] (3) "Mortgage holder" or "holder of the
25 mortgage" means the owner of the mortgage or the
26 mortgage servicer as set forth in the mortgage
27 payoff letter provided to the notification agent;

28 [(3)] (4) "Residential real estate
29 transaction" means any real estate transaction
30 involving a one-to-four family dwelling.

31 (b) At any residential real estate
32 transaction involving the payoff of a mortgage
33 loan, a disclosure statement shall be prepared by
34 the notification agent [and shall be executed by
35 all parties to the transaction or their attorneys]
36 and shall be sent by the notification agent by
37 certified mail, return receipt requested or by
38 CONFIRMED FACSIMILE TRANSMISSION OR BY overnight
39 carrier, to the holder of the mortgage which is to
40 be paid off, within two business days from the
41 date of completion of the closing. The disclosure
42 statement shall include a copy of the payoff
43 statement or other written authorization provided
44 by the mortgage [lender] HOLDER. The person or
45 entity charged with the responsibility of securing
46 the mortgage payoff statement shall transmit a
47 copy of such payoff statement in a timely manner
48 to the notification agent but, in any event, not
49 later than the date of closing. To the extent not
50 shown on the payoff statement, the disclosure
51 statement shall identify the mortgage, the names
52 of the mortgagors OR BORROWERS, the loan number,
53 the property address and the date of [payoff]
54 COMPLETION OF THE CLOSING. The disclosure
55 statement shall direct that, if funds are not
56 received by the mortgage holder within five
57 business days from the date of [payoff] COMPLETION
58 OF THE CLOSING, notice of that fact shall be given
59 to the notification agent. Such statement shall
60 include the name, address, telephone and fax
61 number, if available, of the notification agent.
62 Such disclosure statement may be in substantially
63 the following form:

64

NOTIFICATION

65 Please be advised that a loan from
66 to dated and
67 (lender) (mortgagor)

* * * * *

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

* * * * *

FISCAL IMPACT STATEMENT - BILL NUMBER HB 5580

STATE IMPACT	None
MUNICIPAL IMPACT	None
STATE AGENCY(S)	None

* * * * *

OLR BILL ANALYSIS

HB 5580

AN ACT CONCERNING THE SIMPLIFICATION OF THE MORTGAGE PAYOFF NOTICE PROCESS

SUMMARY: This bill makes several changes to the law that requires designated "notification agents" at real estate closings in which a mortgage loan for a one-to-four family dwelling is being paid off to send a disclosure statement to the mortgage holder informing it of the payment.

Specifically, the bill:

1. eliminates the requirement that all parties to the real estate closing or their attorneys sign the disclosure statement;
2. authorizes the notification agent to send the statement by a confirmed facsimile transmission;
3. defines the phrase "the date of completion of the closing" as the date the payoff funds

become available to send to the mortgage holders (by law, the notification agent must send the disclosure statement to the mortgage holder within two business days of this date);

4. requires the disclosure statement to identify either the borrowers or the mortgagors instead of just the mortgagors;
5. requires the disclosure statement to identify the date of completion of the closing instead of the payoff date; and
6. requires that the disclosure statement direct the mortgage holder to alert the notification agent if it does not receive funds within five business days from the date of completion of closing instead of from the payoff date.

EFFECTIVE DATE: October 1, 1998

BACKGROUND

Notification Agents

PA 97-267 designates the following people as notification agents:

1. the buyer's attorney, if the seller is represented by a separate attorney who agrees to transmit the payment to the mortgage holder;
2. the seller's attorney, if the buyer is represented by a separate attorney who agrees to transmit the payment to the mortgage holder;
3. the seller, if the buyer is represented by a separate attorney who agrees to transmit the payment to the mortgage holder;
4. the new lender, if the loan is being refinanced and the mortgage holder's attorney also represents the new lender.

COMMITTEE ACTION

6

File No. 230

Judiciary Committee

Joint Favorable Report
Yea 35 Nay 0